IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9060 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KRISHANLAL L. SHAH

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 9060 of 2002

MR GT PARIKH for Petitioner No. 1-2

MR AK CLERK for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 10/02/2004

ORAL JUDGEMENT

The present petition is filed for the following reliefs:

"(A) that this Hon'ble Court be pleased to admit this writ petition and be further pleased to direct that this petition be heard and disposed of at an early date;

(B) that by a writ of mandamus or any other appropriate writ, direction or order, this Hon'ble Court be pleased, pending the hearing and final disposal of this writ petition to grant interim relief and direct the respondents to increase the quantum of basic ex gratia from Rs.300/-, to Rs.600/-, with immediate effect;

(C) that by a writ of mandamus or any other appropriate writ, direction or order this Hon'ble Court be pleased to quash and set aside the order dated 21.3.2002 (Annexure 'K') issued by the Under Secretary, Ministry of Finance, Insurance Division, Government of India, New Delhi, in the interest of justice;

(D) that by a writ of mandamus or any other appropriate writ, direction or order, this Hon'ble Court be pleased to direct the respondents herein to increase quantum of basic ex gratia from Rs.300.00 to Rs.600.00 per month with an appropriate DA/ DR pattern in the interest of justice and equity;

(DD) that by a writ of mandamus or any other appropriate writ, director or order, this Hon'ble Court be pleased to ALTERNATIVELY direct the respondents herein to pay Rs.800/-, p.m. as medical assistance to the petitioners in addition to the amount of ex gratia being presently paid to them every month, as has been paid to pre 1986 retirees of Reserve Bank of India, as prayed for by the petitioners in aforesaid para no.25(A) in the interest of justice;"

It will be appropriate to note that these very petitioners approached this Court by Special Civil Application No.11588 of 2000 wherein the relief sought for reads thus,

"(A) that this Hon'ble Court be pleased to admit this writ petition and be further pleased to direct that this petition be heard and disposed of at an early date;

(B) that by a writ of mandamus or any other appropriate writ, direction or order, this Hon'ble Court be pleased, pending the hearing and final disposal of this writ petition to grant interim relief and direct the respondents to increase the quantum of basic ex gratia from Rs.300/-, to Rs.600/-, with immediate effect;

(C) that by a writ of mandamus or any other appropriate writ, direction or order this Hon'ble Court be pleased to direct the respondents herein to increase quantum of basic ex gratia from Rs.300/-, to Rs.600/-, with an appropriate DA/ DR pattern in the interest of justice and equity."

The said Special Civil Application No.11588 of 2000 was disposed of by this Court (Coram: H.K. Rathod, J.) by order dated 18.12.2001, which reads thus,

"Heard Mr.G.T. Parikh, ld. advocate appearing on behalf of the petitioner and Mr.A.K. Clerk, ld. advocate on behalf of respondents. The short grievance of the present petitioner is that representation dtd.14.6.1999 addressed to the Hon'ble Minister of Finance Ministry of Government of India has remained undecided and no response is given by respondent authorities. In light of this fact, it is directed to the respondent no.1 to reconsider the representation of petitioner dtd.14.6.19999 and examine the grievance of the petitioner and to pass appropriate orders in accordance with law within period of 3 (three)_ months from the date of receiving the copy of this order. In light of above observations and directions, present petition stands disposed of accordingly. Notice is discharged."

2. It is further reported that as the representation filed by the petitioners was not considered by the Government within the time prescribed by the aforesaid order, the authorities approached this Court by filing Misc. Civil Application No.393 of 2000 in Special Civil Application No.11588 of 2000 wherein the Court was pleased to grant extension for three months. The Government/ authorities then passed order dated 21.3.2002 which is produced at Annexure 'K' to this petition. The contents of it are reproduced, as it is clear from the same that the representation of the petitioners was considered and decision was taken. The relevant part reads thus,

"The Hon'ble High Court of Gujarat have by its judgement dated 18.12.2001 in the Special Civil Application No.11588 of 2000 directed the Government of India, respondent no.1 in the case, to consider the representation dated 14.6.1999 of the petitioner addressed to the Finance Minister and to pass appropriate orders in accordance with law within a period of three months from the date of receiving the copy of order. Your specific grievance as per your aforementioned petition and also as reflected in the said representation dated 14.6.1999 relates to increasing the rate of basic ex gratia from the existing Rs.300/-, p.m. to Rs.600/-, p.m.

The matter has been examined by the Government in all its perspectives. Since the pension rules applicable to the employees of Life Insurance Corporation of India are similar to those applicable to the employees in the banking sector, it is not possible to consider the case of payment of DA linked enhanced ex gratia to the retirees of the corporation in isolation from the case of the pensioners of the banking sector. Moreover, the financial burden that would devolve upon the corporation as a result of increasing the rate of basic ex gratia from the existing limit of Rs.300/-, p.m. to Rs.600/-, p.m. together with the corresponding increase in the dearness relief would be heavy and therefor not acceptable.

Under the circumstances the Government of India regrets its inability to consider your request favorably for increasing the quantum of basic ex gratia from Rs.300/-, p.m. to Rs.600/-, p.m. with an appropriate DA/ DR pattern."

3. While answering the question as to why the present petition should not be dismissed being a successive petition for the same reliefs, Mr.Parikh, the learned advocate submitted that it is only before this forum, the petitioners along with other retirees of the Corporation (LIC) can agitate their grievance. He submitted that the petitioners are required to be granted some relief in light of the fact that the retirees of the Reserve Bank of India are paid an amount of Rs.800/-, per month as medical assistance in terms of Reserve Bank of India's Circular No.10 dated 02.06.2001 and communication DAPM No.G.9/ 22/ 21.02/ 2002-2003 dated 1st August 2002.

The learned submitted that this fact is brought on record of this case by Civil Application No.6052 of 2003 which was filed for amending the petition incorporating para 25(A) in the main petition and the prayer clause para 31(DD). The learned advocate submitted that the Government ought to have considered the case of the petitioners and other retirees for grant of the said benefit of medical assistance on the same lines on which it is granted to the retirees of the Reserve Bank of India.

4. The learned advocate is not able to point out as to whether this aspect of grant of medical assistance to the retirees of the Reserve Bank of India was pointed out and was brought to the notice of the Government authorities either along with the representation or subsequent thereto, but before it was decided by the Government.

5. Be that as it may. The present petition cannot be entertained being a successive petition for the same reliefs as earlier petition, i.e. Special Civil Application No.11588 of 2000 was for the same relief and was disposed of by this Court by order dated 18.12.2001. The only additional prayer which is made in the present petition is for grant of Rs.800/-, as medical assistance on the lines it is granted to the retirees of the Reserve Bank of India. As this particular aspect was not placed before the Government of India, the present petition is disposed of with a direction that if the petitioners approach the Government by filing a fresh representation on the aforesaid facts within six weeks from the date of receipt of a copy of this judgement, the same shall be considered in accordance with law as expeditiously as possible, but not later than three months from the date of receipt of the representation. The decision taken on the representation shall be communicated to the petitioners by a Registered Post A.D. letter.

6. The petition is disposed of. Rule is discharged. No order as to costs.

(Ravi R. Tripathi, J.)

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